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Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1971

RALPH B. THOMPSON, ET AL., ETC.,

Petitioners,

VS.

PEOPLE EX REL. ELMER J. HOFFMAN, NOW JAMES H. CLARK, COUNTY COLLECTOR, ETC., ET AL.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

RALPH B. THOMPSON and
MARGARET E. THOMPSON, his wife
Box 133
Hinsdale, Illinois 60521
Petitioners, Pro Se.

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

Petitioners Ralph B. Thompson and Margaret E. Thompson, his wife, Pray that a Writ of Certiorari be issued to review the final decision of the Supreme Court of Illinois, in the above entitled case.

OPINION BELOW

There was no opinion below.

JURISDICTION

The judgment of the Supreme Court of Illinois was entered May 25, 1971. (App. B, *infra*) A timely Motion for reconsideration was denied June 24, 1971. (App. C, *infra*) This Petition for a Writ of Certiorari will be timely filed on or before September 22, 1971.

The jurisdiction of this court is invoked under 28 U.S.C. 1257 (3).

QUESTIONS PRESENTED

Where taxpayers have paid their taxes under protest and filed timely objections with the clerk of the Court as prescribed by law, and the court has allowed the objections to be amended to include the amounts of money involved and comply with the law, and set a date for a hearing on the objections as amended and consolidated, were petitioners denied due process of law when the Court dismissed the amendments two days before its scheduled, by court order, hearing on those amendments.

Did the trial court flaunt and abuse its discretion by entering orders dismissing tax cases on the premise that the cases came forth on court order to hear the amended cases, when in reality there were orders entered two days prior dismissing those amendments.

Where the Court has entered an Order on consolidated tax cases, granting a specified time for amendments to be filed may the court allow opposing counsel to separate the cases and dismiss the amendments two days before a court ordered hearing on Motions that are not filed with the clerk of the court.

Where there is no statutory limitation as to what a taxpayer may object to on a tax objection may the court limit the kind of allegations that petitioners may make as to

the levying, collecting, distributing and spending of said tax monies as it affects the private rights and privileges of petitioners without denying Petitioners equal protection of the law, depriving them of their property without due process of law and smothering their rights to petition the government for a redress of grievances as guaranteed by the federal constitution.

Where under the Illinois Constitution the circuit Courts have original jurisdiction in all justiciable matters, may that court refuse to act on questions of law related to statutory non-compliance on the basis that they lack jurisdiction without denying due process of law.

Where the trial court has sustained objections of other tax payers that were based on illegal tax rates for the reason of lack of statutory authority or abuse of statutory authority by the taxing district may it order that an illegal tax rate is an ancillary matter as to Petitioner's tax cases without interfering with judicial fair play guaranteed by the federal constitution.

Where the trial court makes no provisions for placing tax objection cases on court call or docket and the court allows the State's Attorney to present the cases en masse without identifying which case is before the court, and the court dismisses said cases in one lump without allowing Petitioners to present their objections, may the court then enter orders individually and separately on said cases without abusing their statutory authority.

Where the statutes provide for the recorder of deeds to transmit the actual sale price of land and real estate to the assessor for use in determining assessed value for tax purposes may the court refuse petitioner evidence from the recorder's office without denying due process of law.

Where the statute provides that the County Clerk and the taxing districts shall be notified of any hearing, may the trial court set a date for a hearing on a tax objection case without notifying or determining that the taxing districts and the county clerk have been notified, without exceeding its jurisdiction and interfering with judicial fairplay as guaranteed by the federal constitution.

Where there is ample evidence that the tax monies of a taxing district are going to be used to condemn Petitioners' property, and the trial court has already ruled in a prior case that the money could not be accumulated as to that taxing district, but that petitioners could not have administrative review under the Illinois Administrative Review Act of 1945 as amended, but should seek relief on an objection on the tax bill, may the same court refuse to hear the same complaint on a tax objection case without denying due process of law.

Where the Illinois Constitution provides that all process shall be in the name of the People of the State of Illinois may the State's Attorney represent the collector or any other elected official, while not doing so for the People of the State, without vacating his office and denying to Petitioners equal protection of the law as guaranteed by the federal constitution.

Where the law provides that the collector shall publish his intent to apply for a determination of the correctness of the amount on a tax objection case, and then apply to the court for such an order and he has not so published nor applied, may he appear in court to dismiss a taxpayer's objections, without interfering with judicial fairplay as guaranteed by both state and federal constitutions.

Where the court has the statutory duty to determine the right of a matter on a tax objection and then order

the money refunded or distributed to the taxing district, may the court properly rule only on the money without denying equal protection and due process of law to Petitioners and to the People.

Where the statutes provide that taxing districts shall be notified of any hearing on a tax objection where their money is affected may the court enter an order claiming the taxing districts were notified when they were not and there is no evidence that any taxing district has ever been notified of any such hearing in Du Page County, Illinois, without making the court a non-functioning court denying due process and equal protection not only to Petitioners but to all taxpayers and citizens in the county.

Where the statutes provide that taxing districts may appear before the county board of tax review to seek an equalization of assessed values on property in their district and the taxing districts do not so appear, may the court properly rule that Petitioners herein may not seek the same remedy without denying due process and equal protection of the laws.

May the court allow the State's Attorney to present a Notice of Motion for a hearing instanter to overrule tax objections, and then change that to a Notice to set a date for a hearing and before there is a hearing change back to a Motion for a hearing instanter to overrule (which is no hearing at all) without interfering with judicial fair-play as guaranteed to Petitioners by the federal constitution.

Where there is a court order for a hearing may the Clerk of the Court fail and refuse to place the case on the court call or docket sheet without denying equal protection and due process of law to Petitioners.

Where evidence of complete statutory non-compliance by the court, and all other respondents is presented to the Supreme Court of Illinois, and the records are in such a condition that appeal can not be had through normal channels and the Supreme Court of Illinois has the duty to see to the proper functioning of the lower courts, may that court deny a Petition or Motion for redress of grievances without stating a reason without denying the right to petition the government for redress of grievances as guaranteed by the First Amendment to the United States Constitution.

Where the Petitioners asked for a refund, a rebate or a correction of illegal practices, may the court properly refuse to consider only the illegal practices without denying due process of law.

Where the statute provides that matters of law and matters of equity may be presented to the court separately may the trial court refuse to hear the matters of law separately without denying due process of law.

May the trial court hold that tax rates of specific taxing districts are illegal as to some taxpayers without holding the rates illegal as to all taxpayers within a taxing district, without denying equal protection of the law not only to petitioners but to all of the People of the State of Illinois.

Where the respondents and the trial court failed to follow statutory procedures do they not exceed their jurisdiction and arbitrarily deny Petitioners their rights under the common law.

Where the Petitioners asked the trial court to state the Statute on which it based its dismissal may the trial court answer the "law", without saying what procedures were not followed and what statutes were not complied with without denying equal protection of the law.

Where the statutes provide that the court must hold a conference within 90 days and the court fails and refuses to do so, may the court retain jurisdiction of the cases after they have been appealed to a higher court without denying to Petitioners equal protection of the laws.

May the trial court disregard the mandates of its own orders without violating the constitutional rights of the Petitioners and all the people of the State of Illinois.

STATUTES INVOLVED

The statutes involved are: Illinois Revenue Act of 1939, as amended, Chap. 120, sections 675, 675(a), 676 and 716, Ill. Rev. Stat. (App. A. *infra*)

STATEMENT OF THE CASE

This is a tax objection proceeding brought under the Illinois Revenue Act of 1939, as amended, questioning the validity and seeking a review of the final orders on the grounds that there was an excess and abuse of statutory and constitutional authority, an unjust interference of judicial fair play, denying Petitioners herein the right to Petition the government for a redress of grievances guaranteed by the First Amendment to the United States Constitution; due process and equal protection of the law; depriving Petitioners of their property without due process of law as guaranteed by both state and federal constitutions.

Petitioners' 1967, 1968 and 1969, personal property taxes were paid under protest and objections filed with the Clerk of the Circuit Court of the 18th Judicial Circuit of Du Page County, Illinois. On August 12, 1970, on a Notice with a part of the case numbers of 1968 tax cases, the trial court dismissed the 1967 personal property tax case by overruling a number, on the grounds that no objections were filed, which was untrue. All of the Petitioners' cases

were called to the attention of the court at that time and there was a complete controversy over what was before the court. The cases were all appealed to the Appellate Court of Illinois, Second District, even though Petitioners had the right of direct appeal on revenue matters to the Supreme Court of Illinois both under the Constitution of Illinois and Supreme Court Rules. The reason for this was that Petitioner Margaret E. Thompson had appealed two prior cases that were revenue related to the Illinois Supreme Court and that court transferred both cases to the Appellate Court for lack of constitutional question.

The Appellate Court dismissed that appeal, appeal was denied by the Supreme Court of Illinois, and a motion for reconsideration was denied on May 20, 1971, and the mandate of that court stayed for appeal to this court. A petition for Writ of Certiorari was docketed in this court as *Thompson* v. *Hoffman*, No. 71-234 on August 14, 1971. Petitioners have been advised by the clerk of this court that the Petition could be directed to only one court and it has been directed to the Appellate Court of Illinois, Second District.

This Petition for a Writ of Certiorari is directed to the Supreme Court of Illinois, on actions had in that court and the Circuit Court of the 18th Judicial Circuit after the first appeal was taken. The facts and the statutes are essentially the same in both Petitions.

On December 2, 1970, without notifying the County Clerk or taxing district, and with the first appeal still before the Appellate Court the trial Court ruled that cases could not be appealed until the trial court adjudicated them over Petitioners' objections that the court was in default and that it did not have jurisdiction in the first place because the Collector had not made application and the cases

were in the jurisdiction of the Appellate Court. The 1967 tax case on real estate taxes and the 1968 personal property tax case were set for hearing on February 3, 1971.

The State's Attorney changed this to February 10, 1971. The trial court allowed the State's Attorney to change his tactics. The Notice on the 1967 tax was to set a date for a hearing; the 1968 tax was on a Petition of the collector for a hearing instanter to overrule again claiming no objections were filed. The 1968 real estate tax objections and the 1968 personal property tax objections are the same and there are 23 pages of them. On all of the tax objections every year Petitioners incorporated the previous objections by reference, which is allowed by Illinois Supreme Court Rules. Only the amounts of money would be different in these cases, there could be absolutely no reason to hear the same objection over and over again just to figure the amount of money involved.

On February 10, 1971, the case was not on the court call sheet, and the judge was conducting a lengthy jury trial. Both cases were continued to March 31, 1971.

On Tuesday March 30, 1971, after Petitioners had the Newspaper print that Assistant State's Attorney Blair Varnes had been appointed a Magistrate to the Circuit Court, Mr. Varnes became more polite in that this time he telephoned to say that the Judge (actually he was a magistrate) was out of town for the week and he would set the cases for another hearing, which he did for April 13, 1971.

However before that on or about March 10, 1971, Mr. Varnes called Margaret E. Thompson to his office to talk over the 1968 tax cases. He offered to lower the assessed

valuation if she would drop the remainder of her objections, especially the one on the county donating money to the Northeastern Illinois Planning Commission. He argued that the trial court did not have jurisdiction to enforce statutory compliance and that the proper relief could be obtained by injunction. He was reminded as was the court later that we had a constitutional amendment to the judicial article in 1963, that the trial court had original jurisdiction in all justiciable matters and that it was he who took the cases before a magistrate whose authority was limited, not Petitioners.

At that meeting Mr. Varnes was fully informed of what was going on, including that Petitioners were offered $250,000 dollars for their property by an unknown purchaser in January 1970, if Margaret E. Thompson, would withdraw two cases from the Supreme Court of Illinois, and Petitioners would leave the country. One of those cases is now before this court as *Thompson* v. *County Board of School Trustees of Du Page County, Illinois, et al.,* No. 71-235 the other one has been to the Appellate Court and is back on the Illinois Supreme Court Docket for September 1971. In the case before the Illinois Supreme Court, *Thompson* v. *Board of Commissioners of the Oak Brook Park District,* No. 44330, when Petitioners could not get tax cases heard, in July of 1969, a complaint for administrative review was filed against the Park Board under the Administrative Review Act of 1945, as amended on their 1969 budget and appropriation ordinance, which is the 1969 taxes. The trial court held that money could not be accumulated for the purchase of land but that the proper procedure was a tax objection. So on the above Park Board Case the trial court was advised in October of 1969, that Petitioners had tax objections filed for 1967 and 1968 and that they could not get them heard. The objections

and complaints of the *Park Board* case are incorporated into the tax cases so that Petitioners could be heard in one case or the other when the courts decide which is the proper procedure.

On March 10, 1971 Mr. Varnes also gave Petitioners copies of the Objections of several other taxpayers that had been adjudicated and money refunded to the taxpayer.

On April 13, 1971, Mr. Varnes appeared as Assistant State's Attorney although he was to take his seat on the bench on May 1, 1971.

In the court room Petitioners were never at any time given equal standing with the State's Attorney. Never at any time were they apprised of what was going to happen in court and never at any time were they allowed to present a single solitary objection to the court for the court's consideration.

The Court ruled, on the 1968 personal property tax, which was dismissed on April 13, 1971 and an order entered on April 14, 1971, that it did not have jurisdiction in matters of statutory non-compliance,

> "The Court: Her land is the sole issue before this court."
>
> "The Court: My question is, what jurisdiction do I have in all of these ancillary matters in connection with an objection?"

The court failed to recognize that in every instance where objections of other taxpayers were sustained by the court and money refunded that the taxpayer was alleging statutory excess or abuse or a lack of statutory authority, in objecting to illegal rates.

On April 13, 1971, at the urging of Mr. Varnes the trial court granted Petitioners the right to amend the 1967, 1968 and 1969 real estate taxes and the 1969 personal prop-

erty tax objections to tabulate the money that was involved in each specific objection and although there was complete disagreement over what had to be done to comply with the law, the objections as amended were to comply with the law. The order also set the amended objections for hearing on May 17, 1971. (App. F *infra*)

The court allowed all of the tax objections to be presented by the State's Attorney at the same time without giving the numbers of the cases, so the records are a mess. On April 13, 1971 the trial court again ruled that they had jurisdiction over Petitioners' objections, it ruled that the collector was the plaintiff even though Section 676, of Chapter 120, Ill. Rev. Stat. clearly states that the collector is defendant. The court also ruled that Petitioners had to do something within one year (never saying what), when the statute is also very clear that in counties of more than 1,000,000 a taxpayer has one year to file objections, Du Page County is not in that category and the taxpayer has only until October 1 of the taxing year unless the time is extended by the County Board of Supervisors. Petitioners had filed all objections and petitions for refund within the proper time. Not only that other taxpayers who followed the same procedure, had their personal property tax objections heard on the same day as their real estate taxes when the objections were the same on both real estate and personal property and had money refunded on illegal rates. (App. E *infra*) The orders adjudicating these cases claim that the taxing districts were notified, nothing could be further from the truth. Where money was refunded the taxpayer's attorney was called on the telephone and the date set and no roughing up was given on following procedures. These attorneys were not forced to run into court time after time and experience delay after delay.

The court on April 13, 1971 also refused perfectly valid evidence as to the actual value of land in Oak Brook, land title from the recorder of deed's office.

For evidence acceptable to the court Petitioners bought a copy of the final order on a prior case, *Miller* v. *Fairfield,* No. 65-2188 in the trial court, Rec. 4. Appendix, Page 10, Case No. 44038, Case No. 71-235, *Thompson* v. *County Board of School Trustees,* in this court, wherein the court established the value of land abutting Petitioners. But since this same land was involved in a school boundary change in the above case and had been argued in the trial court in 1969 and that case was before the Supreme Court of Illinois with the same State's Attorney as counsel for the defense, the order was appended to a Motion to reconsider in that case. The order not only shows the value of the land, it reveals that the trial court was to retain jurisdiction of the sale, which the trial court did not do, causing immense injury to the Petitioners.

A new Assistant State's Attorney was assigned to the tax cases even more inexperienced in court room practice than Petitioner Margaret E. Thompson, who is not an attorney at law, if that is possible.

The new assistant mailed what he called a Notice and Motion to dismiss amendments, on May 10, 1971 to appear in court on May 13, 1971, he was telephoned by Petitioners, that they could not be there, both being self employed, and that there was a a court ordered hearing on May 17, 1971, could he please wait those few days, when he very arrongantly refused, he was told where to go, the cases were under court order.

There were four separate orders entered on four separated cases on May 14, 1971, (App. D, *infra*) dismissing Petitioners' amendments by default. There is no official transcript of what happened in court. On May 17, 1971 there was no record in the clerk of the court's office of the orders nor were Notices and Motions filed.

On May 17, 1971, Petitioners appeared in the trial court on a Petition for rehearing on the 1968 Personal Property tax Petition for Refund which had been dismissed on April 14, 1971, on the grounds that other taxpayers had been heard and that Petitioners were being denied their constitutional rights, that the court's order was contrary to rulings of this court in, *Barlow* v. *Collins*, 1970, 25 L. Ed. 2d, 192, and *Assoc. of Data Processing* v. *William V. Camp, etc.*, 1970, 25 L. Ed. 2d, 185 which state that injury can be in many forms, economic and otherwise but also contrary to *White* v. *Board of Appeals*, 1970, 45 Ill. 2d, 192, which states that judicial review can be had on a tax objection. There was a complete lack of intelligence on the part of both the State's Attorney and the Magistrate, (I can not call him the court or the presiding judge because he did not call court to order and there was no clerk present), as to what judicial review meant, that it means exactly what it says, that the circuit court had the right to review what the taxing districts had done, and the Petitioners had the right to ask the trial court for such review on a tax objection.

The above Petition for rehearing and all the real estate cases were presented to the court by the State's Attorney over Petitioners' objections that they should present their own cases.

The court ruled that the Petitioners did not comply with the law, in a blanket fashion on all cases at the same time, without allowing Petitioners to present any evidence

or bring up a single point. No case law nor statutes were cited by either the Court (Magistrate), or the State's Attorney. There is over $13,000,000.00 dollars in the county treasury put there by the collector that there is no doubt belongs to the school districts of the county, there is over $5,000,000, of county general and road funds that were held illegal by this same magistrate on the objections of other taxpayers for 1967, 1968 and 1969. God alone knows what fantastic sums are involved in all the cases he ruled on between August 12, 1970 and May 17, 1971. There were cases running all the way back to 1949. On April 13, 1971, the official transcript shows that a stack of these were signed by the magistrate. They were orders by agreement between the railroads and the State's Attorney. The papers were being signed during the entire time that testimony was given on that day.

After the hearing on May 17, 1971, where the magistrate had told the State's Attorney he could file his orders the following day, the official transcript says *nunc pro tunc*, but you can tell the transcript has been altered, those words were never used in the trial court. Petitioners checked the records in the clerk's office only to find no papers of the State's Attorney were filed. He was confronted in the collector's office and a shouting match ensued with plenty of witnesses wherein he insisted that he did not have to file his papers with the clerk, he only had to serve them on Petitioners.

The first appeal was at this time still in the Supreme Court of Illinois. Petitioners waited until the 21st of May to receive copies of orders that were to be entered on May 18, 1971, when they were not forthcoming a Petition for Redress of Grievances was filed in the Supreme Court of Illinois. On May 24, 1971, Petitioner received copies

of some of the Motions, Notices and Orders entered *nunc pro tunc,* on May 20, 1971, in the trial court, without any Notice to Petitioners. (App. D *infra*) On May 25, 1971, the Petition changed by the court to a Motion for redress of grievances was denied, on the 26 or 27 of May the State's Attorney filed a Motion to strike the Petition in the Supreme Court, this was returned to the State's Attorney as was Petitioners' objections to that Motion. Petitioners then filed a Motion to reconsider the order denying Motion for redress of grievances and this was denied on June 24, 1971.

Petitioners have exhausted the possibility of obtaining relief in the Illinois courts.

The facts in case No. 71-234 are incorporated herein as though fully set forth herein and made a part of this petition.

The records in this case were submitted to this court with the above Petition, 71-234, *Thompson* v. *Hoffman.*

The trial court records are not in a condition so that appeal may be had through normal channels.

REASONS FOR GRANTING THE WRIT

The trial court whose judgment is affirmed by the silent denial of Petitioners' Motion for redress of grievances by the Supreme Court of Illinois has exceeded and abused its statutory authority and lacks jurisdiction to deny petitioners herein the right to a fair trial and a proper hearing after a conference.

The Courts in Illinois are out of line in flaunting and disregarding their own court orders, not only in complying with the order to hear Petitioners' amended objections, but in other orders entered by the trial court such as the one named above on retaining jurisdiction of the sale of land.

Statutory compliance is a judicial process and not a legislative one, if the trial court does not have jurisdiction to compel statutory compliance, we might as well toss in the sponge. *People Ex Rel Norland* v. *Home for the Aged,* 40 Ill. 2nd, 92, on Page 99, "Compliance or non-compliance is a judicial function that may not be usurped by the legislature."

The Orders of the trial court that Petitioners' objections are ancillary matters and irrelevant or contrary to the two rulings of this court in 1970, *Barlow* v. *Collins* and *Data Processing* v. *William V. Camp,* cited above in that injury can be aesthetic, conservational, religious, and many others it need not be entirely a matter of money, especially where there is no statutory limitation on what may be objected to.

The Illinois courts have shown complete prejudice not only to Petitioners but to many other Illinois taxpayers in allowing a double standard of hearings which permits some taxpayers to be heard and others not.

The respondents have not complied with a single statutory requirement of the Revenue act with respect to tax objections and they are being allowed to create tremendous chaos in the county, through the courts.

The Petitioners have the right to remedy and justice, have exhausted all possibility of obtaining relief in the lower courts, are sustaining severe damages by inequalities in assessments and by statutory non-compliance of the taxing districts and respondents.

It is submitted that all things in government are related to the taxing authority of the various taxing districts, and Illinois has seen fit to allow taxpayers to complain if they are dissatisfied or feel that they are being unjustly taxed or injured; that the questions submitted are very substantial. That the questions can insure that not only Petitioners can be heard on their complaints but all people in Illinois can be heard.

For all the reasons set forth in Petition 71-234, *Thompson* v. *Hoffman*, pp. 31 to 35, said reasons are incorporated herein and made a part hereof to save duplication.

It is submitted that for the above reasons this writ should be granted.

CONCLUSION

For the foregoing reasons, Petitioners pray that this Court issue its Writ of Certiorari to review the judgment of the Supreme Court of Illinois, in this case.

Respectfully submitted,

RALPH B. THOMPSON,
MARGARET E. THOMPSON, his wife,
BOX 133,
Hinsdale, Illinois 60521
Petitioners